
From: Nickolas Kister [REDACTED]
Sent: Friday, January 31, 2020 4:17 PM
To: Sheri Hartz <shartz@emeryville.org>
Cc: Amber Evans <aevans@emeryville.org>; Sean Bruecker [REDACTED]
Subject: [External] Vigilant Solutions Follow Up

Good Afternoon Sheri-

Amber Evans directed me to submit a statement to you for the upcoming council meeting on February 4th. Due to the short amount of time before the council meeting I'm sending this message informally in hope to get it to you quickly. Please let me know if I need to send a formal letter addressing the council or if this email will work.

On 1/31/2020 it was brought to the attention of Vigilant Solutions that there was concern from council members in regards to Vigilant Solutions relationship with federal law enforcement agencies. I want to take this moment to insure the city that at no time does Vigilant Solutions share or sale any data generated by a government agency. The agency generating the LPR detection owns the data and has full control over that data and who that data is or isn't shared with. All LPR transactions are infinitely auditable by each agency appointed manager and compliant with FBI CJIS Security Policy.

Similar questions were raised in the City of Hayward late last year. The attached staff report prepared by Hayward Public Works Transportation Division Manager Fred Kelly further explains the laws in place to prevent data sharing with specific law enforcement agencies. Additionally under CA SB-34 & CA SB-54 there is further state legislation in place to limit LPR data sharing including limitations on sharing LPR data with specific federal agencies.

I will be available to answer any additional questions for the council on Tuesday as I will be in attendance for the city council meeting.

Thank you

NICK KISTER
North West Regional Sales Manager
Vigilant Solutions



Your privacy is important to us. That is why we have taken appropriate measures to ensure the data you provide to us is kept secure. To learn more about how we process your personal information, how we comply with applicable data protection laws, and care for the security and privacy of your personal data, please review our [Privacy Policy](#). If you have any questions related to data protection and compliance with applicable laws, please contact us at our Security Operations Center at 1-302-444-9838 or mail us at:
Attention: Privacy Compliance Program, P.O. Box 59263, Schaumburg, IL USA, 60159-0263



DATE: October 29, 2019

TO: Mayor and City Council

FROM: Director of Public Works

SUBJECT: Adopt a Resolution Amending the Fiscal Year 2020 Operating and Capital Improvement Program Budget, Transferring and Appropriating \$60,000 from General Fund to the Capital Projects Fund and Transferring and Appropriating \$35,000 from General Fund to Fleet Capital Management Fund for the Purchase of a Parking Enforcement Vehicle and other Related Equipment

RECOMMENDATION

That Council adopts the attached resolution (Attachment II) authorizing:

1. An amendment of the fiscal year 2020 Operating and Capital Improvement Program (CIP) Budgets relating to the transfer and appropriation of funds
2. A transfer of funds in the amount of \$60,000 from the General Fund to the Capital Projects Fund and appropriation for use in Project 06913; and
3. A transfer of funds in the amount of \$35,000 from the General Fund to the Fleet Capital Management Fund, and appropriation to facilitate the purchase of a parking enforcement vehicle.

SUMMARY

The Downtown Parking Management Plan was adopted by Council on April 24, 2018. The plan provides strategy recommendations to efficiently utilize parking availability in Downtown Hayward. The key components of the plan include parking time restrictions, permit parking, and enforcement.

The plan will implement a combination of two- and four-hour parking time restrictions for both on-street and off-street parking. Residents and businesses who choose to participate in the parking permit program will not be subject to on-street time restrictions and time restrictions will be enforced using a License Plate Recognition (LPR) equipped vehicle. The use of LPR technology for parking enforcement was approved by Council with the approval of the Downtown Parking Management Plan.

The estimated capital expense for the program implementation is \$95,000. This amount includes start-up costs (\$20,000) and purchase of one LPR equipped vehicle and other related equipment (\$75,000).

If Council approves this resolution, staff anticipates that the program will be fully operational by January/February 2020.

On September 16, 2019, staff brought this matter before the Council Infrastructure Committee (CIC) for review and feedback. The CIC unanimously approved referring the item to Council for consideration and approval.

BACKGROUND

In fall of 2014, BART began the implementation of paid parking at the Hayward BART Station. In response, pursuant to Council direction, staff implemented “interim parking strategies” to mitigate potential impacts to the downtown parking supply. In addition to the interim strategies, long-term, comprehensive parking policies were deemed critical to the growth and development of the Downtown area.

The Downtown Parking Management Plan was adopted by Council on April 24, 2018. The adopted plan includes long-term policies and regulations to improve parking demand in the Downtown area and protects the valuable City-provided downtown parking resources from day-long use by BART patrons, and other private park-and-ride users.

Key components of the plan include:

Parking Time Restrictions: The plan implements time restrictions for both on-street and off-street parking. On-street restrictions are a combination of two- and four-hour parking on Downtown streets and all Municipal (Muni) parking lots. The time restrictions will apply to weekdays only, Monday to Friday from 9 a.m. to 4 p.m., except holidays.

Permit Parking: The plan establishes a Downtown parking permit program for both residents and businesses.

Residents who choose to participate in the Residential Permit Program (RPP) will not be subject to on-street time restrictions within the Downtown RPP area. The number of permits per household are limited to discourage multiple vehicle ownership in Downtown, which is a transit-oriented development environment.

Costs of residential permits are as follows:

- First permit free for the first year, second permit \$50 per year
- Limit of two permits per household
- Guest permits – 5-day limit - \$5.00 per permit

Downtown merchants that choose to participate in the new Business Parking Permit program will not be subject to time restrictions in off-street (muni lots) facilities and designated zones west of the BART station. The cost of business permits are as follows:

- \$50 per year, per permit

- Limit of twenty permits per business (contingent upon the number of employees)

Enforcement: Enhanced enforcement efforts aided by new technology and adequate staffing is a necessary component of a successful parking management system. A License Plate Recognition (LPR) equipped vehicle will be used to enhance enforcement efforts by replacing the antiquated and inefficient method of “chalking tires.” This practice of chalking tires was recently challenged in court and has been ruled a violation of the 4th Amendment by the 6th U.S. Circuit Court of Appeals. Although this ruling does not apply to the state of California, a similar challenge could be brought before California courts in the future.

DISCUSSION

One of the main components of the plan approved by Council is enhanced enforcement. As the program becomes fully operational and the coverage area expands, a more efficient method of enforcement is crucial to its overall success. Absent parking meters that visually indicate when a violation has occurred, Hayward has utilized the dated practice of tire chalking for parking enforcement. This method is time consuming, inefficient, and hinders the ability of enforcement personnel to provide the necessary daily coverage in all permit parking areas.

Staff requests approval from Council to appropriate funds for the purchase of a LPR equipped vehicle and other related equipment. LPR technology would allow faster and more efficient parking enforcement, which would also result in a higher success rate for the program. Staff recommends the purchase of the following equipment required to start operations:

License Plate Recognition (LPR) System and Installation: The Hayward Police Department has utilized Vigilant Solutions LPR technology for law enforcement, and not parking enforcement purposes since 2014. Vigilant Solutions LPR system has been extremely reliable and effective in its utilization by the Hayward Police Department. Best practice calls for standardization of LPR systems within an agency whenever possible. Potential savings in licensing fees, system reliability, and the familiarity with software/hardware systems are the primary factors for this rationale. The technology and services offered by Vigilant Solutions meet the needs required to efficiently enforce parking restrictions in the Downtown, the eight Residential Parking Permit areas and South Hayward BART. If Council approves, Vigilant Solutions software and equipment would be purchased.

The quote provided for Vigilant Solutions LPR equipment and installation is \$39,000. This includes one mobile LPR 2-camera system, laptop with cellular technology, installation, staff training, and portal access via laptop and smartphones. Staff would also be able to use the data collected by the system to gather parking turn-over information that would be used to evaluate the impact of the program following implementation.

Recently, the City of Richmond terminated its contract with Vigilant Solutions reportedly over concerns about the sharing of data with Immigration and Customs Enforcement

agency staff.¹ However, the fact is that the State privacy laws as detailed below prohibit any third party (i.e., Vigilant) from sharing data collected from the operation of LPR systems in the state of California.

Data Privacy: State law sets forth stringent privacy requirements for any agency in the state that utilizes LPR technology, (see California Civil Code sections 1798.29, 1798.82, and 1798.90.5 et seq.). The purpose of the legislation is to protect information collected by LPR from unauthorized access, use, modification or disclosure, and to require notification to affected individuals if a security breach is suspected. It also requires each agency to implement a usage and privacy policy to ensure that the collection, use, maintenance, sharing, and dissemination of LPR information is consistent with respect to individual privacy and civil liberties. This privacy policy is to ensure that any data collected as part of law enforcement and/or parking enforcement remains secure. This law is applicable to both the implementing agency and the LPR service provider (Vigilant Solutions).

Questions of data privacy and data security are often associated with data that is obtained via LPR systems. The system setup of the stored data is the first key factor when discussing data security and privacy. According to Vigilant, parking enforcement data obtained via its LPR operations will be housed in a separate data silo independent of other LPR data. Independent user accounts and permissions for each of these data silos further restricts and protects access to license plate scanned data. Parking enforcement data is the property of the City of Hayward and data obtained from the parking enforcement system cannot be sold, shared, or distributed by Vigilant or other third-party vendors. The City has the sole authority to determine with which agency, if any, data is shared. For parking enforcement purposes, no data would need to be shared with outside agencies at any level of government. For potential investigative purposes, Hayward's parking enforcement data is proposed to only be shared with the Hayward Police Department. As an extra layer of security, protection, and transparency, all activity performed by users of the parking enforcement product are logged for auditing purposes.

The security of the stored data is the second key factor when discussing data security and privacy. The data center that houses the cloud-hosted license plate data features redundant power, network connectivity, and disk arrays. Secure access control to the facility, physical escorts for onsite visitors, and onsite system administrators and engineers, add to the security footprint of the data. The onsite network where the data is hosted is secured by protocols compliant with PCI, HIPAA, and SOX IT governance requirements. Intrusion protection services offer deep packet inspection of all inbound traffic to monitor for cyber threats.

The parking enforcement data remains the property of the City and it will be retained per the retention policy set forth by the City. As part of the parking enforcement program, City staff has developed a proposed privacy policy for the program (Attachment III), as required by the Civil Code Section 1798.90, et seq. The proposed privacy policy, developed to be consistent with HPD's current policy and that of the cities of Berkeley and San Leandro, includes the following data retention policy:

¹ <https://www.sfgate.com/news/bavarea/article/City-Council-Drops-Vigilant-Solutions-Contract-14054732.php>

- License Plate data collected: 365 days from date of infraction

Note that the proposed “rolling” 365-day retention period is consistent with Hayward’s current Police Department policy. It will provide for the seamless intra-agency sharing of data between the two departments and facilitate the management of parking citation appeals. One significant benefit of the proposed retention policy will be the ability to utilize the data to perform statistical analysis of the program’s effectiveness. This will allow staff to report to Council on various program analytics and suggest changes based on data trends. The “rolling” 365-day retention policy is consistent with that of Berkeley and San Leandro (1-year retention policy) and much shorter than San Francisco’s (5-year) retention policy.

Enforcement Vehicle: Staff evaluated the needs for an enforcement vehicle and explored the option of buying an electric vehicle to reduce emissions. However, staff determined that a fully electric vehicle would not be adequate for this program because the battery range of a fully electric vehicle would limit the time the enforcement vehicle could be in service.

Staff proposes to purchase a Ford Fusion plug-in hybrid vehicle. A plug-in hybrid vehicle would provide a greater range, while also providing some of the environmental benefits of a fully electric vehicle.

The cost to purchase this vehicle is \$35,000. Ford Fusion hybrid vehicles are currently in use by various City departments. Purchasing a vehicle model that is similar to existing vehicles in the City’s fleet would potentially reduce ongoing maintenance costs.

Start-up Cost: The estimated \$20,000 start-up cost includes the purchase of vehicle permit tags, updating parking restriction signs, outreach material such as flyers and mailers, enforcement uniforms, and the purchase of one smartphone to be used for enforcement.

Council Infrastructure Committee Recommendation

On September 16, 2019, staff brought this matter before the Council Infrastructure Committee (CIC) for review and feedback. The CIC unanimously approved referring the item to Council for consideration and approval. CIC members expressed a desire to have staff hold conversations with HPD command staff to discuss the pros and cons of data sharing between parking enforcement and Hayward law enforcement and the process by which data is stored. Staff held several meetings with IT and HPD command staff to address CIC concerns. The proposed policies outlined in this report relative to data sharing and retention policies are consistent with feedback received from the subsequent meetings with HPD.

ECONOMIC IMPACT

The Downtown Parking Permit Program will provide an opportunity for residents and

businesses in the Downtown to purchase permits that would allow unrestricted parking in designated zones. Based on Council's recommendations, residents would get the first permit free for the first year, and pay \$50 for the second permit, per year. The permit for businesses will be \$50 per year, per permit, up to twenty permits. The proposed plan will support and enhance the Downtown as a place where local employees, customers, residents, and visitors can find convenient parking to suit their specific needs, while they are spending time in the area.

FISCAL IMPACT

The program implementation, and purchase of one LPR vehicle with related technology will occur in FY 2020. The estimated capital expense of \$95,000, includes start-up costs (\$20,000), and one LPR equipped vehicle (\$75,000). These funds would be transferred from the General Fund and appropriated to the Capital Projects Fund and Fleet Capital Management Fund.

Some program costs will be ongoing and incremental, such as maintenance of the vehicle, fuel, and annual cost for software upgrades. It is estimated that after the first year of implementation, these costs will be paid for using revenue generated by the parking enforcement program. Staff anticipates that by the end of year two (following the initial capital outlay), the projected program net revenue will be approximately \$81,000 per year. If the program expands to a second year to include a Parking Enforcement Officer (1.0 FTE), the annual program net revenue is forecasted to be \$141,000, excluding additional capital expenses (see Attachment IV). The budgetary estimates in Attachment IV assume the expansion of the program in FY 2021. This was for forecasting purposes only. Any proposed increase in personnel or capital outlays would be included with the annual budget process and subject to Council approval.

STRATEGIC INITIATIVES

This agenda item supports the Complete Streets Strategic Initiative. The purpose of the Complete Streets initiative is to build streets that are safe, comfortable, and convenient for everyone regardless of age or ability, including motorists, pedestrians, bicyclists and public transportation riders. This item supports the following goals and objectives:

Goal 2: Provide Complete Streets that balance the diverse needs of users of the public right-of-way.

Objective 1: Increase walking, biking, transit usage, carpooling, and other sustainable modes of transportation by designing and retrofitting streets to accommodate all modes.

This agenda item also supports the Complete Communities Strategic Initiative. The purpose of the Complete Communities initiative is to create and support structures, services, and amenities to provide inclusive and equitable access with the goal of becoming a thriving and promising place to live, work, and play for all. This item supports the following goal and objectives:

Goal 1: Improve quality of life for residents, business owners, and community members in all Hayward neighborhoods.

Objective 4: Create resilient and sustainable neighborhoods.

SUSTAINABILITY FEATURES

The Downtown Parking Management Plan approved by City Council in June 2018, supports sustainability and mobility goals identified in the City's 2040 General Plan. The plan will put into effect policies to efficiently manage public parking in the Downtown. The recommended Residential and Business Permit Parking Plans would minimize the adverse effects of spill over parking from BART patrons. The approved policies will also discourage multiple vehicle ownership in Downtown, which is a transit-oriented zone. Transit-oriented development is a key strategy for reducing greenhouse gas emissions in Hayward.

PUBLIC CONTACT

Staff conducted extensive outreach efforts regarding Downtown parking management starting in 2015. Outreach included:

- Staff presented results of the preliminary parking analysis, related to the then recent BART action on charging for parking, to the Council Economic Development Committee (CEDC) on April 6, 2015.
- In October 2016, staff solicited comments from visitors to the Downtown area via surveys; 134 surveys were completed. To complement this effort, a more detailed survey was posted on-line on the City's website, Facebook page, Nextdoor, and sent via e-mail. Approximately 840 on-line surveys were completed.
- In summer of 2017, staff interviewed Downtown merchants and residents who lived near the Hayward BART station.
- Staff presented the recommendations to the CIC on January 24, 2018, the Chamber's Government Relations Council (GRC) on February 2, 2018, full Council on February 27, 2018, and United Merchants of Downtown Hayward on April 2, 2018.

During the outreach efforts, many residents and merchants indicated support for the proposed parking management strategies.

If fund appropriation for the purchase of parking enforcement equipment and start-up cost is approved by City Council, staff will take the following steps starting in October 2019, to inform the public about the implementation of the program:

- Prepare outreach material providing details and contact information for the program: flyers, posters and mailers

- Door-to-door outreach to businesses within the plan area
- Send mailers to all residential addresses within the plan area
- Staff will host public meetings at City Hall, two to three weeks before the program rolls out
- Post posters around the Downtown and at strategic locations within Muni lots, to alert people of the new parking restrictions, one month prior to roll out
- Social media blast (Facebook, Nextdoor, Instagram, Twitter, etc.)
- Set up a City website to provide details and contact information for the program

NEXT STEPS

The following steps will occur if Council authorizes the proposed amendments to the Fiscal Year 2020 Operating Budget and Capital Improvement Plan for the transfer and appropriation of funds for the purchase of a parking enforcement vehicle and other related equipment required to implement the Downtown Parking Management Plan approved by Council on June 2018:

October 2019	Purchase one LPR equipped vehicle; staff hands-on training
November 2019	First public meeting
December 2020	- Second public meeting - Permits will be available to residents and business owners for purchase at City Hall
January/ February 2020	Program will be fully operational beginning with a 30-day moratorium, during which warnings will be issued.
Early 2021	The impacts, as well as staffing and additional equipment needs, will be evaluated during the first year of implementation and brought before the CIC and Council for further consideration.

Prepared by: Fred Kelley, Transportation Division Manager

Recommended by: Alex Ameri, Director of Public Works

Approved by:



Kelly McAdoo, City Manager